

Appln No. 09/775,677

Amdt date May 20, 2005

Reply to Office action of February 8, 2005

**REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office action mailed February 8, 2005. Claims 22, 38, and 40 have been amended. Claims 75-85 have been added. Accordingly, claims 14-17, 22, 25-27, 30, 32-40 and 74-85 are currently pending.

On pages 2-3 of the Office action, the Examiner indicates that the allowability of claims 22, 30 and 37-40 is withdrawn in view of the newly discovered reference to Buchanan et al. In addition, the Examiner states that because independent claims 22 and 38 are rejected by prior art, the election/restriction set forth in the Office action mailed May 6, 2002 is reinstated and that claims 25-27, 32-36 and 74 are withdrawn from further consideration for being drawn to a non-elected species. Applicant also notes with appreciation that claims 14-17 have been allowed by the Examiner.

On pages 3-4 of the Office action, claims 22, 30 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Buchanan et al., which describes the placement of a "circumferential mitral purse-string suture" around the mitral annulus.

Applicant has amended claims 22, 38 and 40 to recite that the "distal end of the elongate body is spaced distally from the proximal end of the elongate body in the first and second configurations." It is not believed that this amendment narrows the scope of the claims, but rather is made to explicitly state that which is implicit in the original claims.

Applicant respectfully submits that Buchanan does not anticipate claims 22, 38 and 40. Buchanan discloses a

Appln No. 09/775,677

Amdt date May 20, 2005

Reply to Office action of February 8, 2005

"circumferential mitral purse-string suture (PSS)" (See page 182 of the Buchanan reference). As described on pages 185-186 of the Buchanan reference, one end of the PSS is passed sequentially under each marginal branch of the left circumflex coronary artery until it reaches an appropriate position for tying to the other end of the PSS. Temporary tension is applied to "the crossed ends of the PSS" and a square knot is tied. See text under the headings "PSS Passage Under Marginal Coronary Artery" and "PSS Tightening". In view of the above, it is clear that the circumferential purse-string suture of Buchanan does not describe a "proximal end" and a "distal end" of an "elongate body" as recited in claims 22, 38 and 40 of the present application. In particular, Buchanan does not describe a medical device wherein "the distal end of the elongate body is spaced distally from the proximal end of the elongate body in the first and second configurations," as recited in claims 22, 38 and 40. In view of the above, applicant respectfully submits that claims 22, 38 and 40 are not anticipated by Buchanan.

Claims 30 and 37 depend from claim 22 and claim 39 depends from claim 38. Accordingly, because these claims depend from allowable independent claims and because they contain additional limitations further distinguishing these claims from Buchanan when considered as a whole, these claims are also believed to be patentable.

Applicant also respectfully requests that claims 25-27, 32-36 and 74 which were withdrawn from further consideration as being drawn to a non-elected species, now be considered for further examination on the merits. Since these claims depend on

Appln No. 09/775,677

Amdt date May 20, 2005

Reply to Office action of February 8, 2005

allowable independent claims and because they contain additional limitations further distinguishing these claims from Buchanan when considered as a whole, these claims are also believed to be patentable.

Claims 22, 38 and 40 have also been amended to change the phrase "adjustable ~~between~~ a first configuration . . . and a second configuration" to -- adjustable ~~from~~ a first configuration to a second configuration --. The change is made to more completely cover certain aspects of the invention.

Claims 75-85 have also been added to more completely cover certain aspects of the invention. Claim 75 recites that "the elongate body is located at least in part within the coronary sinus and is adjusted to the second configuration without fully encircling the mitral valve annulus." Claim 75 is believed to be patentable over Buchanan which discloses a "circumferential" purse-string suture (PSS). New independent claim 76 recites that "the elongate body comprises a memory material." Buchanan does not describe such a material and therefore does not anticipate claim 76.

Claims 77-85 are similar to allowed claims 14-17 and are believed to be the same or substantially the same as claims 1-4, 6, 15, 16, 20 and 22 from U.S. Patent application publication U.S. 2004/0098116, published May 20, 2004, serial No. 10/295,323, filed November 15, 2002. Support for new claims 77-85 is found at page 8, line 24 to page 9, line 24, and page 22, line 23 - page 24, line 2.

On March 8, 2005, a telephone interview was conducted with Examiner Urmi Chattopadhyay. During the interview, claim 22 was

Appln No. 09/775,677

Amdt date May 20, 2005

Reply to Office action of February 8, 2005

discussed as well as the Examiner's rejection of claim 22 under 35 U.S.C. 102(b) as anticipated by Buchanan. The undersigned argued that the circumferential purse-string suture of Buchanan was not an elongate body having a distal end and a proximal end as recited in claim 22. In addition, applicant's attorney stated that the purse-string suture of Buchanan did not appear to be adapted to exert a force from "within the coronary sinus" onto the mitral valve annulus. No agreement was reached and applicant's attorney indicated that he would submit additional arguments in a response to the Office action. The undersigned wishes to thank the Examiner for the time and attention devoted to the interview.

In view of the above, applicant respectfully requests reconsideration of the application and allowance of claims 14-17, 22, 25-27, 30, 32-40, and 74-85.

Respectfully submitted,  
CHRISTIE, PARKER & HALE, LLP

By Mark Garscia  
Mark Garscia  
Reg. No. 31,953  
626/795-9900

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